(1) Supreme Court, U.S.
FILED

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No. .

In the

Supreme Court of the United States

October Term, 1999

In re LARRY RITCHIE JUNIOR, Sui Juris Petitioner,

-vs-

STATE OF WEST VIRGINIA [Sued as a Person]
COUNTY OF WOOD [Sued as a Person]
CITY OF PARKERSBURG [Sued as a Person]
JOSEPH GOODWIN [Judge]
STEPTOE & JOHNSON [Sued as a Person]
W. RANDOLPH FIFE [Attorney]
PAUL A. BILLUPS [Attorney]
MUNDY & ADKINS [Sued as a Person]
BENJAMIN HUGHES [Attorney]
PULLIN, KNOPF, FOWLER & FLANAGAN [Sued as a Person]
CHARLES HADEN II [Judge]
JERRY HOGG [Magistrate]
SAMEUL KAY [Clerk] Respondents,

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit.

On Petition for Writ of Certiorari to the United States District Court Southern District of West Virginia

PETITION FOR WRIT OF CERTIORARI

LARRY RITCHIE JUNIOR Sui Juris
c/o Route 2 Box 54
Marietta, Ohio 45750
Petitioners

53 pp

QUESTIONS FOR REVIEW.

1) Can a Judgment entered by DISTRICT COURT OF united STATES; SOUTHERN DISTRICT OF WEST VIRGINIA secured under Contract between Party of Interest under status of "Master" with Clerk of Courts' Office of DISTRICT COURT OF united STATES; SOUTHERN DISTRICT OF WEST VIRGINIA under status of "Servant" be reversed by a Party or trespasser outside Venue and Jurisdiction of DISTRICT COURT OF united STATES; SOUTHERN DISTRICT OF WEST VIRGINIA?

2) How can Officers of Court expunge or neglect entering Judgments sustained by Rule and Operation of Law without perpretating Fraud under Color of Law?

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I. ABBREVIATIONS and DEFINITIONS

Fed.R.Civ.P.	=	Federal Rules of Civil Procedure
Fed.R.App.P.	=	Federal Rules of Appellate Procedure
U.S.Const.Am.	=	United States Constitution Amendment
U.S.C. §	=	United States Code Section
Sup.Ct.Prac.R.	=	Supreme Court Practice Rule
L.R.Civ.P.	=	Local Rules of Civil Procedure

II. OPINIONS BELOW

1) Opinions delivered by Court of Appeals of United States Fourth Circuit and United States District Court, Southern District of West Virginia are unpublished.

III. STATEMENT OF JURISDICTION

2) February 1, 1999; Final judgment was entered by Court of Appeals of United States Fourth Circuit

3) Larry Ritchie Junior Petitioner invokes Supreme Court of United States' Jurisdiction under Sup.Ct.Prac.R. 10 for Petition for Writ of Certiorari; Title 28 U.S.C. §1651 for Issuance of Writs; Title 28 U.S.C. § 1605 "Foreign Sovereign Immunity Act" and Title 28 U.S.C. § 1606 for Loss of Immunity of Officers of Court; States and Foreign States for exhaustion of all remedies for adjudication by Court of last resort.

4) Larry Ritchie Junior Petitioner Petition for Writ of Certiorari is made timely and in Good Faith with no just cause for delay.

IV. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A. CONSTITUTION OF UNITED STATES AMENDMENTS

5) Amendment V

"No person/citizen shall be deprived of life, liberty or property without due process of law.

6) Amendment XIV

" All persons/citizens born or naturalized within United States and subject to jurisdiction thereof are citizens of United States where they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of United States nor shall any State deprive any person/citizen life, liberty or property without due process of law; nor deny to any person/citizen within its jurisdictions the equal protection of the laws.

B. STATUTES

7) For reason of length, statutes involved are placed/located within Appendix D Pages 20 a. Statutes involved include: a) Title 18 U.S.C. § 2; b) Title 18 U.S.C. § 241; c) Title 18 U.S.C. § 242; d) Title 18 U.S.C. § 245; e) Title 18 U.S.C. § 700; f) Title 18 U.S.C. § 872; g) Title 18 U.S.C. § 1031; h) Title 18 U.S.C. § 1505; i) Title 18 U.S.C. § 1621; j) Title 18 U.S.C. § 1652; k) Title 18 U.S.C. § 1951; l) Title 18 U.S.C. § 1952; m) Title 18 U.S.C. § 1962; n) Title 18 U.S.C. § 1964; o) Title 18 U.S.C. § 2381; p) Title 18 U.S.C. § 2383; q) Title 18 U.S.C. § 2384; r) Title 18 U.S.C. § 2385; s) Title 28 U.S.C. § 1331; t) Title 28 U.S.C. § 1343; u) Title 28 U.S.C. § 1605; v) Title 28 U.S.C. § 1606; w) Title 42 U.S.C. § 1986; x) Title 42 U.S.C. § 1985; and y) Title 42 U.S.C. § 1983.

V. STATEMENT OF CASE

8) December 3, 1998; Larry Ritchie Junior Plaintiff presented a Contract with Clerk of Court for United States District Court, Southern District of West Virginia by way of Complaint: Writ of Error for Trial by Jury with issuance of Summons under Master/Servant Relationship transaction secured by payment of filing fee in amount of $150.00 and no cents.

9) December 11, 1998; Charles Haden II [Judge] entered Order assigning Jerry Hogg [Magistrate] for submitting findings of fact(s) and recommendations.

10) December 17, 1998; Joseph Goodwin [Judge] filed Motion for Extension of Time for Answering; Pleading or Defending Larry Ritchie Junior Plaintiff's Complaint: Writ of Error.

11) December 21, 1998; Jerry Hogg [Magistrate] entered an Order granting Joseph Goodwin [Judge] relief for Answering; Pleading or Defending Larry Ritchie Junior Plaintiff's Complaint: Writ of Error until February 5, 1999.

12) December 21, 1998; Respondents County of Wood [Sued as a Person]; Benjamin Hughes [Attorney] and Pullin, Knopf, Fowler and Flanagan [Sued as a Person] filed Motions to Dismiss Larry Ritchie Junior Plaintiff's Complaint: Writ of Error.

13) December 22, 1998; Steptoe and Johnson [Sued as a Person] and Randolph Fife filed a Motion to Dismiss Larry Ritchie Junior Plaintiff's Complaint: Writ of Error.

14) December 23, 1998; Mundy and Adkins [Sued as a Person] and Paul Billups [Attorney] filed a Motion to Dismiss Larry Ritchie Junior Plaintiff's Complaint: Writ of Error.

15) December 29, 1998; Larry Ritchie Junior Plaintiff filed Response: Writ of Error: Judgment by Default under Fed.R.Civ.P. Rule 55 for Judgment by Default with Writ of Praecipe ordering Clerk of Court make Entry of Judgment by Default against Respondents State of West Virginia [Sued as a Person and City of Parkersburg [Sued as a Person for neglecting an Answer; Pleading or Defense by Fed.R.Civ.P. Rule 6 for Computation of Time under Fed.R.Civ.P. Rule 12(a) for time and required response in nature of a Writ.

16) December 30, 1998; Respondents Mundy and Adkins [Sued as a Person] and Paul Billups [Attorney] filed Motion for Sanctions against Larry Ritchie Junior Plaintiff.

17) January 5, 1999; Larry Ritchie Junior Plaintiff filed Motion to Strike under Fed.R.Civ.P. Rule 12(f) for Striking entirety Respondent Joseph Goodwin [Judge] Motion for Extension of Time for Substances of Immateriality; Redundancy and Insufficient Defense presented upon Grounds of Bias and waste of Time with Motion for Hearing with Order for hearing.

18) January 5, 1999; Larry Ritchie Junior Plaintiff filed Motion to Strike under Fed.R.Civ.P. Rule 12(f) for Striking entirety

Respondents Mundy and Adkins [Sued as a Person] and Paul Billups [Attorney] Motion for Sanctions filed January 4, 1999 for Substances of Immateriality; Scandalous; Redundancy and Insufficient Defense upon Grounds of Bias and waste of Time with Motion for Hearing with Order for hearing.

19) January 5, 1999; Larry Ritchie Junior Plaintiff filed Motion to Strike under Fed.R.Civ.P. Rule 12(f) for Striking entirety Respondents Mundy and Adkins [Sued as a Person] and Paul Billups [Attorney] Motion to Dismiss filed December 23, 1998 for Substances of Immateriality; Scandalous; Redundancy and Insufficient Defense upon Grounds of Bias and waste of Time with Motion for Hearing with Order for hearing.

20) January 5, 1999; Larry Ritchie Junior Plaintiff filed Motion to Strike under Fed.R.Civ.P. Rule 12(f) for Striking entirety Respondents County of Wood [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person] and Benjamin Hughes [Attorney] Motion to Dismiss filed December 21, 1998 for Substances of Immateriality; Scandalous; Redundancy and Insufficient Defense upon Grounds of Bias and waste of Time with Motion for Hearing with Order for hearing.

21) January 5, 1999; Larry Ritchie Junior Plaintiff filed Motion to Strike under Fed.R.Civ.P. Rule 12(f) for Striking entirety Respondents Steptoe and Johnson [Sued as a Person] and Randolph Fife [Attorney] Motion to Dismiss filed December 22, 1998 for Substances of Immateriality; Scandalous; Redundancy and Insufficient Defense upon Grounds of Bias and waste of Time with Motion for Hearing with Order for hearing.

22) January 7, 1999; Respondent State of West Virginia [Sued as a Person] filed Motion to Dismiss Larry Ritchie Junior Plaintiff's Complaint: Writ of Error.

23) January 25, 1999; Respondent State of West Virginia [Sued as a Person] filed Motion for Leave to File untimely Motion to Dismiss Larry Ritchie Junior Plaintiff's Complaint: Writ of Error.

24) January 25, 1999; Larry Ritchie Junior Plaintiff filed Motion to Strike under Fed.R.Civ.P. Rule 12(f) for Striking entirety Respondent State of West Virginia [Sued as a Person] Motion to Dismiss filed January 7, 1999 for Substances of Immateriality; Scandalous; Redundancy and Insufficient Defense upon Grounds of Bias and waste of Time with Motion for Hearing with Order for hearing.

25) January 26, 1999; Larry Ritchie Junior Plaintiff filed Motion to Strike under Fed.R.Civ.P. Rule 12(f) for Striking entirety Respondent City of Parkersburg [Sued as a Person] Motion to Dismiss and Motion for Sanctions filed January 13, 1999 for Substances of Immateriality; Scandalous; Redundancy and Insufficient Defense upon Grounds of Bias and waste of Time with Motion for Hearing with Order for hearing.

26) January 26, 1999; Larry Ritchie Junior Plaintiff filed Motion to Strike under Fed.R.Civ.P. Rule 12(f) for Striking entirety Respondent State of West Virginia [Sued as a Person] filed Motion for Leave to File untimely Motion to Dismiss filed January 25, 1999 for Substances of Immateriality; Scandalous; Redundancy and Insufficient Defense upon Grounds of Bias and waste of Time with Motion for Hearing with Order for hearing.

27) January 26, 1999; Larry Ritchie Junior Plaintiff filed Motion for Judgment by Default under Fed.R.Civ.P. Rule 55(b)(2) for Judgment by Default granted by Court against Respondents County of Wood [Sued as a Person]; Joseph Goodwin [Judge]; Mundy and Adkins [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney]; and Randolph Fife [Attorney] for neglecting an Answer; Pleading or Defense against Larry Ritchie Junior Plaintiff's Motion to Strike filed January 5, 1999 by Fed.R.Civ.P. Rule 6 for Computation of Time under L.R.Civ.P. Rule 4.01(c) for Time of Response within 14 Days with Motion for hearing; Order for Judgment by Default and Order for hearing.

28) January 26, 1999; Larry Ritchie Junior Plaintiff filed Motion for Judgment Upon Pleadings under Fed.R.Civ.P. Rule 12(c) for Judgment upon Pleadings against Respondents County of Wood [Sued as a Person]; Joseph Goodwin [Judge]; Mundy and Adkins [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney]; and Randolph Fife [Attorney] for no genuine issue(s) of any fact(s) of materiality were/was in dispute and Larry Ritchie Junior Plaintiff is within favor of receiving Judgment upon Pleadings with Motion for hearing; Order for Judgment upon Pleadings and Order for hearing.

29) January 29, 1999; Larry Ritchie Junior Plaintiff filed Motion for Showing of Cause under Fed.R.Civ.P. Rule 7 for an Order against Samuel Kay [Clerk] for showing of cause why Judgment by Default has not been entered against Respondents State of West Virginia [Sued as a Person] and City of Parkersburg[Sued as a Person] for neglecting an Answer; Pleading or Defense against Larry Ritchie Junior Plaintiff's Complaint: Writ of Error timely under Fed.R.Civ.P. Rule 12(a) for time and required response.

30) February 3, 1999; Respondent Joseph Goodwin [Judge] filed Motion to Dismiss and/or for Summary Judgment and Response against Larry Ritchie Junior Plaintiff's Complaint: Writ of Error and Motion for Judgment by Default under Fed.R.Civ.P. Rule 55(b)(2) for Judgment by Default granted by Court filed January 26, 1999.

31) February 3, 1999; Larry Ritchie Junior Plaintiff filed Writ of Attachment under Fed.R.Civ.P. Rule 70 for Attachment of assets against Respondents State of West Virginia [Sued as a Person] and City of Parkersburg [Sued as a Person] for satisfaction of surrendering Judgment by Default under Fed.R.Civ.P. Rule 55 for neglecting an Answer; Pleading or Defense timely under Fed.R.Civ.P. Rule 12(a) for Required Response with Motion for hearing; Order for Attachment; Writ of Praecipe ordering Clerk issue Writ of Attachment and Order for hearing.

32) February 11, 1999; Respondents County of Wood [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person] and Benjamin Hughes [Attorney] filed Response in Opposition with Larry Ritchie Junior Plaintiff's Motion for Judgment Upon Pleadings filed January 26, 1999.

33) February 12, 1999; Larry Ritchie Junior Plaintiff filed Response: Writ of Error: Judgment by Default under Fed.R.Civ.P. Rule 55 for Judgment by Default against Respondent Joseph Goodwin [Judge] for neglecting an Answer; Pleading or Defense against Larry Ritchie Junior Plaintiff's Bill of Complaint: Writ of Error timely under Fed.R.Civ.P. Rule 12(a) for required response with Motion for hearing; Order for Judgment by Default; Writ of Praecipe ordering Clerk make Entry of Judgment by Default and Order for hearing.

34) February 12, 1999; Larry Ritchie Junior Plaintiff filed Motion for Withdraw of Jerry Hogg [Magistrate] for Bias under Fed.R.Civ.P. Rule 7(b)(1) for an Order with Motion for Hearing and Order.

35) February 12, 1999; Larry Ritchie Junior Plaintiff filed Affidavit for Correction of Errors within incorporated case 98-1151 made by Clerk of Courts for United States District Court, Southern District of West Virginia with Writ of Praecipe and Motion for Hearing with an Order for Hearing.

36) February 22, 1999; Larry Ritchie Junior Plaintiff filed Motion to Strike entirety Respondents County of Wood [Sued as a Person] Pullin, Knopf, Fowler and Flanagan [Sued as a Person] and Benjamin Hughes [Attorney] Response filed February 11, 1999 in Opposition with Larry Ritchie Junior Plaintiff's Motion for Judgment Upon Pleadings under Fed.R.Civ.P. Rule 12(c) for Judgment Upon Pleadings filed January 26, 1999 for Substances of Immateriality; Redundancy and Insufficient defense upon Grounds of Bias and waste of Time with Motion for Hearing with Order for hearing.

37) February 22, 1999; Larry Ritchie Junior Plaintiff filed Writ of Execution under Fed.R.Civ.P. Rule 69 for Writ of Execution

for sequestering assets of Respondents State of West Virginia [Sued as a Person]; City of Parkersburg [Sued as a Person] and Joseph Goodwin [Judge] for neglecting satisfaction upon surrendering Judgment by Default by Computation of Time under Fed.R.Civ.P. Rule 12(a) for required response.

38) February 22, 1999; Larry Ritchie Junior Plaintiff filed Writ of Procedendo, Writ in nature of Mandamus of Compelling United States District Court, Southern District of West Virginia proceed with converting Larry Ritchie Junior Plaintiff's Motion for Judgment Upon Pleadings filed January 26, 1999 into a Motion for Summary Judgment under Fed.R.Civ.P. Rule 56(c) for Summary Judgment for no issue(s) of any Fact(s) of Materiality were/was in dispute against Respondents County of Wood [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and Randolph Fife [Attorney].

39) March 8, 1999; Respondents Mundy and Adkins [Sued as a Person] and Paul Billups [Attorney] filed Response in Opposition with Larry Ritchie Junior Plaintiff's Writ of Execution filed February 22, 1999.

40) March 22, 1999; Larry Ritchie Junior Plaintiff filed Motion to Strike under Fed.R.Civ.P. Rule 12(f) for striking entirety Respondents Mundy and Adkins [Sued as a Person] and Paul Billups [Attorney] filed Response in Opposition with Larry Ritchie Junior Plaintiff's Writ of Execution filed February 22, 1999 for substances of Impertinence; Immaterial; Redundant; Scandalous and insufficient Defense upon Grounds of Bias and waste of Time with Motion for Hearing with Order for hearing.

41) April 9, 1999; Jerry Hogg [Magistrate] filed Report and Recommendations.

42) April 26, 1999; Larry Ritchie Junior filed Motion to Strike under Fed.R.Civ.P. Rule 12(f) for striking entirety Jerry Hogg

[Magistrate] Report and Recommendation filed April 9, 1999 for substances of Impertinence; Immaterial; Redundant and Scandalous upon Grounds of Bias and waste of Time with Motion for Hearing with Order for hearing and Order for Striking.

43) April 28, 1999; Charles Haden II [Judge] issued an Order dismissing Larry Ritchie Junior Plaintiff's Complaint: Writ of Error and striking Larry Ritchie Junior Plaintiff's Complaint: Writ of Error from docket of United States District Court, Southern District of West Virginia.

44) June 14, 1999; Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk] are Noticed of Joiner of Parties under Fed.R.Civ.P. Rule 19 for Joiner of Party(s) Feasible by Larry Ritchie Junior Petitioner servicing Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk] with a true and correct Original Notice of Petition for Writ of Certiorari by Certified United States Mail.

45) June 22, 1999; Larry Ritchie Junior Petitioner filed a Petition for Writ of Certiorari for certification of record for review by Court of Appeals of United States Fourth Circuit directed against United States District Court, Southern District of West Virginia for certification of record for review.

46) August 2, 1999; Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Joseph Goodwin [Judge]; Charles Haden II [Judge]; Jerry Hogg [Magistrate]; Samuel Kay [Clerk]; Steptoe & Johnson [Sued as a Person]; Mundy & Adkins [Sued as a Person]; Pullin, Knopf, Fowler & Flanagan [Sued as a Person]; W. Randolph Fife [Attorney]; Benjamin Hughes [Attorney] and Paul Billups [Attorney] were serviced with Larry Ritchie Junior Petitioner's Judgment by Default under Fed.R.Civ.P. Rule 55 for Judgment by Default with service procured by Bryan Douglas Wallace.

47) August 9, 1999; Court of Appeals of United States Fourth Circuit filed Larry Ritchie Junior Petitioner's Judgment by Default

under Fed.R.Civ.P. Rule 55 for Judgment by Default against Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Joseph Goodwin [Judge]; Charles Haden II [Judge]; Jerry Hogg [Magistrate]; Samuel Kay [Clerk]; Steptoe & Johnson [Sued as a Person]; Mundy & Adkins [Sued as a Person]; Pullin, Knopf, Fowler & Flanagan [Sued as a Person]; W. Randolph Fife [Attorney]; Benjamin Hughes [Attorney] and Paul Billups [Attorney] for neglecting an Answer; Pleading or Defense against Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari filed June 22, 1999 timely.

48) September 7, 1999; Court of Appeals of United States Fourth Circuit filed Larry Ritchie Junior Petitioner's Writ of Capture and Sequestration under Fed.R.App.P. Rule 21(c) for Extraordinary Writ of Capture and Sequestration and under Title 28 U.S.C § 1651 for capturing and sequestering assets for holding with Court of Appeals of United States Fourth Circuit for delivery upon Larry Ritchie Junior Petitioner for satisfying Judgment by Default under Fed.R.Civ. P. Rule 55 for Judgment by Default against Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Joseph Goodwin [Judge]; Charles Haden II [Judge]; Jerry Hogg [Magistrate]; Samuel Kay [Clerk]; Steptoe & Johnson [Sued as a Person]; Mundy & Adkins [Sued as a Person]; Pullin, Knopf, Fowler & Flanagan [Sued as a Person]; W. Randolph Fife [Attorney]; Benjamin Hughes [Attorney] and Paul Billups [Attorney].

VI. BASIS FOR JURISDICTION WITHIN COURT OF FIRST INSTANCE

49) Larry Ritchie Junior Petitioner invoked United States District Court, Southern District of West Virginia's Original Jurisdiction under Title 28 U.S.C. §1331 for Federal Question over Title 28 U.S.C. §1343 for Civil Rights under Fed.R.Civ.P. Rule 38(a) and 1789 U.S.Const.Am. VII Right for a Trial by Jury for

enforcement of Title 28 U.S.C. § 1605 and § 1606 for loss of Immunity.

VII. REASONS FOR GRANTING WRIT OF CERTIORARI

50) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" under Title 42 U.S.C. § 1986 [1] for neglecting prevention of further injury(s) or wrong(s) under Title 42 U.S.C. § 1985 for Conspiracy by Court of Appeals of United States Fourth Circuit.

51) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) under Title 42 U.S.C. § 1983 for Deprivation of Rights by Court of Appeals of United States Fourth Circuit.

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1 **"Knowledge of Law" hereinafter refers to Title 42 U.S.C.S. § 1986;**

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this Title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects of refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action of the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding $5,000.00 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

52) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 242 for Deprivation of Rights by Court of Appeals of United States Fourth Circuit.

53) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 241 for Conspiracy by Court of Appeals of United States Fourth Circuit.

54) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1505 for Obstruction of Justice by Court of Appeals of United States Fourth Circuit.

55) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1951 for Interference with Flow of Commerce by Court of Appeals of United States Fourth Circuit.

56) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1962 for Prohibited Activities Court of Appeals of United States Fourth Circuit.

57) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 2381 for Constructive Treason by Court of Appeals of United States Fourth Circuit.

VIII. CONCLUSION

A. BASIC RIGHTS OF DUE PROCESS AND EQUAL PROTECTION OF LAW WERE COMPROMISE.

58) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) of Fraud upon Condition of Mind of Paul Niemeyer [Judge]; Karen Williams [Judge] and M. Blane Michael [Judge] for acting in concert under disguise of law impairing obligation of contract between Larry Ritchie Junior Petitioner and Court of Appeals of United States Fourth Circuit for Perjury of Oath of Office by design.

59) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) of Fraud upon Condition of Mind of Paul Niemeyer [Judge]; Karen Williams [Judge] and M. Blane Michael [Judge] for acting in concert under disguise of law imposing Ex Post Facto Law, Bill of Attainder, and denying Court access by design.

60) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) of Fraud upon Condition of Mind of Paul Niemeyer [Judge]; Karen Williams [Judge] and M. Blane Michael [Judge] for acting in concert under disguise of law surrendering of 1789 Constitution of United States of America by giving aid, comfort; Harboring and shielding criminals against prosecution and performance of Justice by design.

IX. DEMAND FOR RELIEF

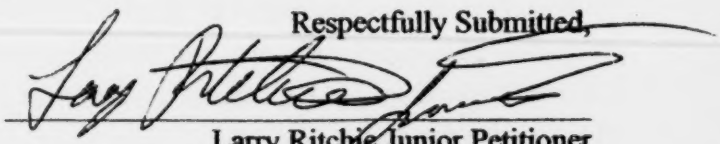
61) Larry Ritchie Junior Petitioner "demands" Supreme Court of United States grant following relief sought:

a) Issue Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari to Court of Appeals of United States Fourth Circuit and United States District Court, Southern District of West Virginia {holder of record sought for review};

b) Place Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari upon docket of Supreme Court of United States for Oral Argument and grant relief sought within Petition for Writ of Certiorari filed within Court of Appeals of United States Fourth Circuit filed June 22, 1999;

c) Any further relief Supreme Court of United States deems necessary.

Respectfully Submitted,



Larry Ritchie Junior Petitioner
c/o Route 2 Box 54
Marietta, Ohio 45750

I, Larry Ritchie Junior Petitioner declare under pains and penalties of perjury under laws of the United States of America under Title 28 U.S.C. § 1746 all presentment of facts are true and correct best of Larry Ritchie Junior Petitioner's knowledge, So help me God; affirmed before me 16th day of February, 2000.

APPENDIX

APPENDIX A--- October 6, 1999; Order denying issuance of Writ by Court of Appeals of United States to United States District Court, Southern District of West Virginia {Unpublished}

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-1826

In Re: LARRY RITCHIE, JR. Petitioner

On Petition for Writ of Certiorari. (CA-98-1151-6)

Before NIEMEYER, WILLIAMS, and MICHAEL, Circuit Judge.
Petition denied by unpublished per curiam opinion.
Larry Ritchie, Jr., Petitioner Pro Se.
Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c)

PER CURIAM:

Larry Ritchie, Jr., petition this court to issue a writ of certiorari to the district court and review the record and two orders in actions he filed in 1997 and 1998, pursuant to Fed.R.App.P. 21(c) and 28 U.S.C. § 1651 (1994). Ritchie filed a notice of appeal of these orders in Ritchie v. West Virginia, No. 99-1750.* This appeal provided the proper vehicle for challenging the orders, and we perceive no basis for reviewing these adjudication's by extraordinary writ. Accordingly, we deny Ritchie's motions for a hearing under Fed.R.Civ.P. 7 and for default judgment and his petition for a writ of certiorari. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

* This appeal was dismissed on September 3, 1999, under 4th Cir.Local R. 45, for failure to pay the filing fee.

Appendix A

A. FACTS

1) June 22, 1999 Larry Ritchie Junior Petitioner entered into Contract under Seal with Court of Appeals of United States Fourth Circuit under Master/Servant Relationship with Specific Performance by payment of filing fee in amount of $100.00 and no cents.

2) Appeals:

a) **relieves** individual(s); Officer(s) of Court(s)/Tribunal(s) against liabilities of exceeding limitations of Jurisdiction.

b) **takes away** into inquiry of Final Judgment rendered with/without Jurisdiction by no review available of record.

c) **is without authority** into inquiring rights invaded by acts of Officers/persons clothed with authority and used Authority beyond boundaries of law delegated by neglecting function of reviewing entire record.

d) **takes away** exercise Right of Petitioning government for redress of grievances by neglecting joining of new Parties.

e) **causes Larry Ritchie Junior Petitioner injuries of materiality for inadequacy and uncertainity**.

3) Writs of Certiorari:

a) **allows** inquiry into Final Judgment rendered with/without Jurisdiction entered within United States District Court, Southern District of West Virginia by review of record.

b) **lies in favor of** petitioning Government for redress of grievances of rights invaded by acts of Officers/persons clothed with authority and used Authority beyond boundaries of law delegated.

c) **permits** exercise Right of petitioning government redress of grievances under 1789 U.S. Const. Am. I by joining new Parties.

d) **allows** justice administered **with certainty and adequacy**.

4) Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari filed June 22, 1999 directed to United States District Court,

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Southern District of West Virginia for certification of record for review **was proper** for United States District Court, Southern District of West Virginia did possess Jurisdiction over Subject Matter and over all Parties but lost Jurisdiction over Subject Matter and over all Parties by exceeding limitations of Jurisdiction/authority delegated by law.

B. SUMMARY OF FACTS

5) Larry Ritchie Junior Petitioner is challenging activity of crimes perpretated under Title 18 U.S.C. § 1962 for Prohibited Activities by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk] exceeding limitations of Jurisdiction; denying Civil Remedies under Title 18 U.S.C. § 1964 for Civil Remedies as Principals under Title 18 U.S.C. § 2 for Principal and Invasion of Rights by Officers of Court clothed with Authority and used Authority beyond boundaries of law delegated by denying of rights under 1789 U.S. Const.Am. V and XIV for Due Process and Equal Protection and benefit under Law as principals.

6) Paul Niemeyer [Judge], Karen Williams [Judge] and M. Blane Michael [Judge] **possessed** power of correcting injury(s) or wrong(s) of Fraud perpretated under Color and Disguise of Law by design against Larry Ritchie Junior Petitioner denial of Due Process and Equal Protection and Benefit under Law.

7) Paul Niemeyer [Judge], Karen Williams [Judge] and M. Blane Michael [Judge] **neglected** preventing further injury(s) or wrong(s) of Fraud perpretated under Color and Disguise of Law by design by contributing further denial of Due Process and Equal Protection and Benefit under Law against Larry Ritchie Junior Petitioner as Principals retaining duty of administering Justice fairly; impartially and speedy.

8) Title 28 U.S.C. § 1651 - **"Writs"**

"Supreme Court of United States and all Courts established by Act of Congress may issue writs necessary or appropriate within aid of Court's Jurisdiction and agreeable with principals of law".

Appendix A

9) Larry Ritchie Junior Petitioner's Incorporated Case 99-1826 for Petition of Writ of Certiorari directed against United States District Court, Southern District of West Virginia initiated within West Virginia State under Constitution of West Virginia Article VIII for establishing law provided by law of forum for moving an Action by Writ of Certiorari.

C. Cause of Action

10) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for Knowledge of Law under Title 42 U.S.C. § 1986 by neglecting prevention of further injury(s) or wrong(s) by Paul Niemeyer [Judge], Karen Williams [Judge] and M. Blane Michael [Judge].

11) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law under Title 42 U.S.C. § 1986 by neglecting prevention of further injury(s) or wrong(s) under Title 42 U.S.C. § 1985 for Conspiracy by Paul Niemeyer [Judge], Karen Williams [Judge] and M. Blane Michael [Judge].

12) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for Knowledge of Law under Title 42 U.S.C. § 1986 by neglecting prevention of further injury(s) or wrong(s) under Title 42 U.S.C. § 1983 for Deprivation of Rights by Paul Niemeyer [Judge], Karen Williams [Judge] and M. Blane Michael [Judge].

13) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for Knowledge of Law under Title 42 U.S.C. § 1986 by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 2 for Principals by Paul Niemeyer [Judge], Karen Williams [Judge] and M. Blane Michael [Judge].

14) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured

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for Knowledge of Law under Title 42 U.S.C. § 1986 by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1621 for Perjury of Oath of Office by Paul Niemeyer [Judge], Karen Williams [Judge] and M. Blane Michael [Judge].

15) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for Knowledge of Law under Title 42 U.S.C. § 1986 by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 242 for Deprivation of Rights under color of law by Paul Niemeyer [Judge], Karen Williams [Judge] and M. Blane Michael [Judge].

16) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for Knowledge of Law under Title 42 U.S.C. § 1986 by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 241 for Conspiracy against Rights by Paul Niemeyer [Judge], Karen Williams [Judge] and M. Blane Michael [Judge].

17) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for Knowledge of Law under Title 42 U.S.C. § 1986 by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1505 for Obstruction of Justice by Paul Niemeyer [Judge], Karen Williams [Judge] and M. Blane Michael [Judge].

18) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for Knowledge of Law under Title 42 U.S.C. § 1986 by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1951 for Interference with Flow of Commerce by Paul Niemeyer [Judge], Karen Williams [Judge] and M. Blane Michael [Judge].

19) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for Knowledge of Law under Title 42 U.S.C. § 1986 by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1952

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for Fraud and Racketeering by Paul Niemeyer [Judge], Karen Williams [Judge] and M. Blane Michael [Judge].

20) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for Knowledge of Law under Title 42 U.S.C. § 1986 by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1962 for Prohibited activities by Paul Niemeyer [Judge], Karen Williams [Judge] and M. Blane Michael [Judge].

21) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for Knowledge of Law under Title 42 U.S.C. § 1986 by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1964 for Civil Remedies by Paul Niemeyer [Judge], Karen Williams [Judge] and M. Blane Michael [Judge].

22) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for Knowledge of Law under Title 42 U.S.C. § 1986 by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 2381 for Constructive Treason by Paul Niemeyer [Judge]; Karen Williams [Judge] and M. Blane Michael [Judge].

APPENDIX B- February 1, 1999 Order denying Petition for Rehearing En Banc: Petition for Rehearing: Writ of Mandamus

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-1826

CA-98-1151-6

In Re: LARRY RITCHIE, JR.

Petitioner

On Petition for Rehearing and Rehearing En Banc

The petitioner's petition for rehearing and rehearing en banc was submitted to this Court. As no member of this Court or the panel requested a poll on the petition for rehearing en banc, and

As the panel considered the petition for rehearing and is of the opinion that it should be denied.

IT IS ORDERED that the petition for rehearing and rehearing en banc is denied.

For the Court,

/s/ Patricia S. Connor
CLERK

Appendix B

I. Facts

1) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" under Title 42 U.S.C. § 1986 [2] for neglecting prevention of further injury(s) or wrong(s) under Title 42 U.S.C. § 1985 for Conspiracy by Court of Appeals of United States Fourth Circuit.

2) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) under Title 42 U.S.C. § 1983 for Deprivation of Rights by Court of Appeals of United States Fourth Circuit.

3) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured

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2 **"Knowledge of Law" hereinafter refers to Title 42 U.S.C.S. § 1986;**

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this Title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects of refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action of the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding $5,000.00 damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

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for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 242 for Deprivation of Rights by Court of Appeals of United States Fourth Circuit.

4) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 241 for Conspiracy by Court of Appeals of United States Fourth Circuit.

5) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1505 for Obstruction of Justice by Court of Appeals of United States Fourth Circuit.

6) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1951 for Interference with Flow of Commerce by Court of Appeals of United States Fourth Circuit.

7) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1962 for Prohibited Activities Court of Appeals of United States Fourth Circuit.

8) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 2381 for Constructive Treason by Court of Appeals of United States Fourth Circuit.

D. Conclusion

9) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or

wrong(s) of Fraud upon Condition of Mind of Paul Niemeyer [Judge]; Karen Williams [Judge] and M. Blane Michael [Judge] for acting in concert under disguise of law impairing obligation of contract between Larry Ritchie Junior Petitioner and Court of Appeals of United States Fourth Circuit for Perjury of Oath of Office by design.

10) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) of Fraud upon Condition of Mind of Paul Niemeyer [Judge]; Karen Williams [Judge] and M. Blane Michael [Judge] for acting in concert under disguise of law imposing Ex Post Facto Law, Bill of Attainder, and denying Court access by design.

11) October 6, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for "Knowledge of Law" by neglecting prevention of further injury(s) or wrong(s) of Fraud upon Condition of Mind of Paul Niemeyer [Judge]; Karen Williams [Judge] and M. Blane Michael [Judge] for acting in concert under disguise of law surrendering of 1789 Constitution of United States of America by giving aid, comfort; Harboring and shielding criminals against prosecution and performance of Justice by design.

12) Record presented before Court of Appeals of United States Fourth Circuit showed and presented clearly fact of United States District Court and Office of Clerk of Courts for District Court of United States, Southern District of West Virginia breached Contract between Larry Ritchie Junior and United States District Court by treating Writs for Entry of Judgment by Default as Motions for avoidance of duty required by law under rights established.

13) Record presented before Court of Appeals of United States Fourth Circuit showed and presented clearly fact of Clerk of Courts for Court of Appeals of United States Fourth Circuit did knowingly and willfully neglect duty required by law under rights established by neglecting Official entries of Judgment by Default against State of West

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Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe & Johnson [Sued as a Person]; Mundy & Adkins [Sued as a Person]; Pullin, Knopf, Fowler & Flanagan [Sued as a Person]; W. Randolph Fife [Attorney]; Benjamin Hughes [Attorney] and Paul Billups [Attorney] neglecting answers; pleadings or defenses against Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari timely.

14) Record presented before Court of Appeals of United States Fourth Circuit showed and presented clearly fact of Court of Appeals of United States Fourth Circuit made new law instead of enforcing and interpreting law under right established.

15) Record presented before Court of Appeals of United States Fourth Circuit showed and presented clearly fact of Larry Ritchie Junior Petitioner was denied Court Access for justice delayed is justice denied.

APPENDIX C-- April 28, 1999; Order delivered by United States District Court, Southern District of West Virginia Incorporated Case 98-1151.

ORDER OF JUDGMENT

In accordance with the Memorandum Opinion and Order entered this day, the Court hereby Orders as follows:

1) All of Plaintiff's pending Motions be **DENIED**;

2) All of Defendant's Motions be **GRANTED**;

3) Motion for Sanctions, filed by City of Parkersburg, Paul Billups, and Mundy and Adkins, be **GRANTED**;

4) Defendant State of West Virginia's motion for leave to file an untimely motion to dismiss be **GRANTED**;

5) This action be **DISMISSED** and stricken from the docket.

The Clerk is directed to send a copy of this Order to counsel of record and to the Plaintiff.

ENTER: April 28, 1999

Charles H. Haden II, Chief Judge

MEMORANDUM OPINION AND ORDER

Pending are Plaintiff Ritchie's "Motion to Strike under Fed.R.Civ.P. Rule 12(f)" and "Motion for Hearing" under Fed.R.Civ.P. Rule 7(b)(1)" treated as objections to the Report an Recommendation filed by the Honorable Jerry Hogg, United States Magistrate Judge. This action was referred to Judge Hogg, who has submitted his propose findings of fact and recommendation for disposition pursuant to Title 28 U.S.C. § 636(b)(1)(B). The Magistrate filed his Report and Recommendation on April 9, 1999, and Ritchie filed his objections to the Report and Recommendation on April 26, 1999. Having reviewed de novo those portions of Magistrate Judge Report and Recommendation to which Ritchie Objects, the Court concludes that the objections are without merit.

Ritchie's motion to strike and motion for hearing further reflect the utter nonsense of Ritchie's pleadings and motions. Ritchie states the grounds for the motion to strike are "substances of Immaterial; Scandalous and Redundancy under FED.R.EVID.. Rule 103(a)(1) for Presentment of Objection by FED.R.EVID.. Rule 104(a) for Question of Admissibility of Evidence presented." Presumably, Ritchie alleges Judge Hogg's ruling is the result of fraud and bias and was outside of Judge Hogg's jurisdiction.

The Affidavit Ritchie attaches in support of his motion to strike is characteristic of the baseless personal attacks Ritchie makes in his litigation. Ritchie avers Judge Hogg is a "Trespasser" within his case and that the undersigned judge possessed knowledge of judge Hogg's bias and "neglected Affiant Court Access and/or neglected presentment of an Order recusing Judge Hogg. Furthermore, he avers the undersigned judge is liable completely for any Misconduct, Malfeasance; Misfeasance or Nonfeasance of Office of agents Jerry Hogg [Magistrate] and Samuel [sic] Kay [Clerk] for neglecting [sic] prevention of further injury(s) or wrong(s) of fraud with/for possession of knowledge defined under U.C.C. 1-201(25-27) for establishing claim of knowledge for liabilities sustained by Affiant under Title 42 U.S.C. §

1986 for knowledge of law neglecting prevention of further injury(s) or wrong(s).

Affix. at 2, Pl.'s Mot. Strike. Ritchie fails to give any factual allegations that would allow the Court to review his legal conclusions or even understand on what basis Ritchie proceeds. The Court agrees with the Magistrate Judge that "Ritchie has wasted enough of the Court's time."[1]

Judge Hogg recommended motions for sanctions be granted with the sanctions left to the Court's discretion. Keeping in mind the frequency of Ritchie's nonsensical and baseless filings, Plaintiff Larry Ritchie Junior is put on **Order and Notice** that similar filings of this nature, including joining judicial officers and court personnel, will subject him to a contempt citation.

Accordingly, the Court adopts and incorporates the findings and recommendations of the Magistrate Judge with the foregoing modification and **Orders** (1) Plaintiff pending motions are **DENIED**; (2) all of Defendant's Motions are **GRANTED** (3) motions filed by the City of Parkersburg; Paul A. Billups and Mundy and Adkins, be **GRANTED** (4) Defendant State of West Virginia's motion for leave to file untimely motion to dismiss be **GRANTED** (5) that this action be dismissed from the docket of the Court.

ENTER April 29, 1999

Charles H. Haden II, Chief Judge

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[1]In so noting, the Court is also aware the United States Supreme Court denied a Petition for Writ of Certiorari filed by plaintiff, among others, appealing the ruling of a West Virginia Circuit Court. Junior -vs- West Virginia, 1999 WL 162797 (April 26, 1999).

Appendix C

I. Facts

1) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk].

2) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 42 U.S.C. § 1985 for Conspiracy by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk].

3) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 42 U.S.C. Section 1983 for Deprivation of Rights by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk].

4) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 242 for Deprivation of Rights under Color of Law by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk].

5) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. §242 for Conspiracy of Rights by Respondents Charles Haden II [Judge] and Jerry Hogg [Magistrate].

6) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured

for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 245 for Federally Protected Activities by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk].

7) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 700 for Desecration of Flag by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Sameul kay [Clerk].

8) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. Section 872 for Extortion by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk].

9) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 876 for Mailing Communications of Threats by Respondents Charles Haden II [Judge].

10) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1031 for Major Fraud against United States by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate]; Sameul Kay [Clerk].

11) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1341

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for Mail Fraud by Respondents Charles Haden II [Judge] and Jerry Hogg [Magistrate].

12) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1505 for Obstruction of Justice by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk].

13) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1621 for Perjury of Oath of Office by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk].

14) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. Section 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. Section 1652 for Citizens as Pirates by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk].

15) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1951 for Fraud and Racketeering by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk].

16) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 1962 for Interference with Commerce by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk].

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17) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 2381 for Constructive Treason by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk].

18) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 2383 for Insurrection by Respondents Charles Haden II [Judge] and Jerry Hogg [Magistrate].

19) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 18 U.S.C. § 2384 for Seditious Conspiracy by Respondents Charles Haden II [Judge] and Jerry Hogg [Magistrate].

C. Conclusion

20) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents Charles Haden II [Judge] and Jerry Hogg [Judge] for impairing obligation of contract for Perjury of Oath of Office by denial of court access by design.

21) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. §1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents Charles Haden II [Judge] and Jerry Hogg [Judge] for imposition of Ex Post

Facto Law and Bill of Attainder(s) by impairing obligation of contract for Perjury of Oath of Office for denial of Court Access by design.

22) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents Charles Haden II [Judge] and Jerry Hogg [Judge] for interference with flow of commerce by impairing obligation of contract for Perjury of Oath of Office by design.

23) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents Charles Haden II [Judge] and Jerry Hogg [Judge] for obstruction of Justice by use of threats and coercion under "disguise of law" impeding performance of Justice by design.

24) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents Charles Haden II [Judge] and Jerry Hogg [Judge] for extortion of rights under threats; duress and coercion by Impairing Obligation of Contract for Perjury of Oath of Office under "disguise of law" by breach of trust by design.

25) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents Charles Haden II [Judge] and Jerry Hogg [Judge] for extortion of rights under threats; duress and coercion impeding/obstructing Larry Ritchie Junior Petitioner of exercising Rights reserved under "disguise of law" by use of service by Mail of United States of America by design.

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26) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents Charles Haden II [Judge] and Jerry Hogg [Judge] for use threats; duress and coercion of Misprision of Treason under "disgaise of law" by surrendering 1789 Constitution of United States of America under Foreign State/Power for harboring; aiding and shielding activities of crimes by design.

27) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents Charles Haden II [Judge] and Jerry Hogg [Judge] for robbery of rights reserved "Without Prejudice" willfully by design of Impairing Obligation of Contract for Perjury of Oath of Office under "disguise of law" by setting aside of 1789 Constitution of United States of America by design.

28) April 29, 1999; Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents Charles Haden II [Judge] and Jerry Hogg [Judge] for manifesting overt acts of constructive Treason by surrendering 1789 Constitution of United States of America under threats, duress, coercion of impeding/delaying administration of Justice acting in under "disguise of law" by impairing obligation of Contract for Perjury of Oath of Office.

29) Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondent Samuel Kay [Clerk] for

impairing obligation of contract for Perjury of Oath of Office by denial of court access by design.

30) Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondent Samuel Kay [Clerk] for imposition of Ex Post Facto Law and Bill of Attainder(s) by impairing obligation of contract for Perjury of Oath of Office for denial of Court Access by design.

31) Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondent Samuel Kay [Clerk] for obstructing/impeding performance of Justice under "disguise of Law" by Impairing Obligation of Contract for Perjury of Oath of Office by design.

32) Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondent Samuel Kay [Clerk] for interference with flow of commerce by robbery of rights reserved under 1789 Constitution of United States of America under "disguise of law" by design for denial of court access.

33) Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondent Samuel Kay [Clerk] for manifesting overt act of Constructive Treason by surrendering Constitution of United States of America under "disguise of Law" by Impairing Obligation of Contract for Perjury of Oath of Office before a Foreign State/Power by design.

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34) Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondent Samuel Kay [Clerk] for harboring/shielding activities of crimes under "disguise of law" by design.

35) Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondent Samuel Kay [Clerk] for acting in concert with Respondents Charles Haden II [Judge] and Jerry Hogg [Magistrate] under "disguise of law" willfully by design neglecting Larry Ritchie Junior Petitioner court access.

36) Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk] for acting in concert under "Disguise of Law" jeopardizing Health; Safety and Welfare of Larry Ritchie Junior Petitioner under Color of Law setting aside of 1789 Constitution of United States of America by design.

37) Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk].

38) Without Due Process of Law under 1789 U.S.Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) under Title 42 U.S.C. § 1985 for Conspiracy by Respondents Charles Haden II [Judge]; Jerry Hogg [Magistrate] and Samuel Kay [Clerk].

Appendix D --- Relevant Statutes.

I. United States Code

1) **Title 18 U.S.C. § 2 "Principal"**

a) Whoever commits an offense against the United States or aids; abets; counsels; commands; induces; or procures its commission, is punishable as a Principal.

b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a Principal.

2) **Title 18 U.S.C. § 241- "Conspiracy"**

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him be the Constitution or Laws of the United States, or because of his having so exercised the same; or

They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

3) **Title 18 U.S.C. § 242 - "Deprivation of Rights under Color of Law"**

Whoever, under color of any law, statute, ordinance, Regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if

death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

4) **Title 18 U.S.C. § 245 - "Federally Protected Activities"**

(b) Whoever, whether or not acting under Color of Law, by use of force willfully injuries, intimidates or interferes with, or attempts to injure, intimidate or interfere with-

(1) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from - (B) participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administrated by United States.

5) **Title 18 U.S.C. § 700 - Desecration of the flag of United States; penalties**

(a)(1) Whoever Knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground, or tramples upon any flag of the United States shall be fined under this title or imprisoned for not more than one year, or both.

6) **Title 18 U.S.C. § 872 - "Extortion"**

Whoever, being an officer, or employee of the United States or any department or agency thereof, or representing himself to be or assuming to act as such, under color or pretense of office or employment commits or attempts an act of extortion, shall be fined under this title or imprisoned not more than three years, or both.

7) **Title 18 U.S.C. § 1031 "Major Fraud against United States"**

a) Whoever knowingly executes or attempts to execute, any scheme or artifice with the intent-----

(1) Defraud the United States;

(2) to obtain money or property by means of false or fraudulent pretenses, representations or promises in any procurement of property or services as a prime contractor with the United States or as a Subcontractor or supplier on a contract in which there is a prime

contract with the United States, if the value of the contract, subcontract, or any other constituent part thereof, for such property or services is $1,000,000.00 or more shall, subject to the applicability of subsection c of this section, shall be fined not more than $1,000,000.00, or imprisoned not more than 10 years, or both.

8) **Title 18 U.S.C. § 1505 - "Obstruction of Justice"**

Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly properly made under antitrust civil process act, willfully withholds, misrepresents, removes from any place, conceals, covers-up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so, or whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, impedes, or endeavors to influence, impede or obstruct the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States; or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any Committee of either House or any joint Committee of the Congress shall be fined under this Title or imprisoned not more than Five Years, or both.

9) **Title 18 U.S.C. § 1621 - "Perjury of Oath of Office"**

Whoever;

(1) having taken as oath before a competent tribunal, officer, or person, in any case in which a law of the united states authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true is guilty of perjury and shall, except

as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

10) **Title 18 U.S.C. § 1652 "Citizens as Pirates"**

Whoever, being a citizen of United States, commits any murder or robbery, or any other act of hostility number of witnesses or by documentary or other type of evidence shall be imprisoned for life.

11) **Title 18 U.S.C.S. § 1951 Fraud and Racketeering:**

(a) Whoever in any way or degree obstructs, delays, or effects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

(b) As used in this section;

(b)(1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(b)(2) The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under Color of Official Right.

(b)(3) The term "commerce" means commerce within the District of Columbia, or any Territory or possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

12) **Title 18 U.S.C. § 1952 "Fraud and Racketeering"**

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(a) Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce with intent to--

1) Distribute the proceeds of any unlawful activity or;

2) commit any crime of violence to further any unlawful activity;

3) otherwise promote, manage, establish, carry on, of any unlawful activity and thereafter attempts to perform-

B) an act described within paragraph (2) shall be fined under this title, imprisoned not more than 20 years or both.

13) **Title 18 U.S.C. § 1962 - "Prohibited Activities"**

(a) It shall be unlawful for any person who has received any income derived, directly, or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of , any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participation in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

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(c) It shall be unlawful for any person employ by or associated with any enterprise engaged in, or the activities of which affect, interstate of foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

14) **Title 18 U.S.C. § 1964 " Civil Remedies"**

a) The **district courts of the United States "shall"** have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise, imposing reasonable restrictions on the future activities or investments of any person, including but not limited to prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which effect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, **making due provision for the rights of innocent persons.**

c) Any person injured in his person or business by reason of violation of 1962 of this chapter may sue therefor in any appropriate **United States District Court** and shall recover threefold damages he sustains and cost of his suit, including a reasonable attorney fee, except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962. The exception contained in the proceeding sentence does not apply to an action against any person that is criminally convicted in connection with the fraud, in which case the statute of limitations shall start to run on the date the conviction becomes final.

15) **Title 18 U.S.C. § 2381 "Constructive Treason"**

Whoever, owing an allegiance to the United States levies War against them or adheres to their enemies, giving them aid, comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined

under this title but not less than $10,000.00 and shall be incapable of holding any office under the United States.

16) **Title 18 U.S.C. § 2383 "Rebellion or Insurrection"**

Whoever incites, sets foot on, assists or engages in any rebellion or insurrection against the authority of the United States or laws thereof, or gives aid, comfort thereto, shall be fined under this title or imprisoned not more than 10 years or both; and incapable of holding any office under the United States.

17) **Title 18 U.S.C. § 2384 "Seditious Conspiracy"**

If two or more persons in any state or territory, or any place subject to the Jurisdiction of the United States, conspire to overthrow, putdown, or to destroy by force the government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, they shall be fined under this title or imprisoned not more than twenty years or both.

18) **Title 28 Section 1331 - Federal Question.**

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

19) **Title 28 Section 1343 - Civil rights and elective franchise.**

(a) The district court shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;

(2) To recover damages from any person who fails to prevent or to aid in prevention any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or

immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;

(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the providing for the protection of civil rights, including the right to vote.

20) **Title 28 U.S.C.S. § 1605 "General exceptions to the jurisdictional immunity of a foreign state;"**

(a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case;

(a)(2) in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;

(a)(5) not otherwise encompassed in paragraph (2) above, in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortuous act or omission of that foreign state or of any official or employee of that foreign state while acting within the scope of his office or employment; except this paragraph shall not apply to;

(a)(5)(A) any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function regardless of whether the discretion be abused, or

(a)(5)(B) any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

21) **Title 28 U.S.C.S. § 1606 "Extent of liability;"**

As to any claim for relief with respect to which a foreign state is not entitled to immunity under section 1605 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign

state except for an agency or instrumentality thereof shall not be liable for punitive damages; if, however, in any case wherein death was caused, the law of the place where the action or omission occurred provides, or has been construed to provide, for damages only punitive in nature, the foreign state shall be liable for actual or compensatory damages measured by the pecuniary injuries resulting from such death which were incurred by the persons for whose benefit the action was brought.

22) **Title 28 U.S.C. § 1651 - "Writs"**

(a) The Supreme Court and all Courts established by Act of Congress may issue Writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usage's and principals of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a Court which has jurisdiction.

23) **Title 28 U.S.C. § 1746 - "Unsworn declarations under penalty of perjury.**

Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

(1) If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date).

(2) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state)

under penalty of perjury that the foregoing is true and correct. Executed on (date).

24) **Title 42 U.S.C. § 1983 "Deprivations of Rights"**

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or cause to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

25) **Title 42 U.S.C.S. § 1985 Conspiracy to interfere with civil Rights:**

(2) Obstructing justice; intimidating party, witness, or juror. If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to be him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges. If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal

protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any state or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

26) **Title 42 U.S.C. § 1986 -"Knowledge of Law"**

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this Title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects of refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action of the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action.

Supreme Court, U.S.
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(3)

Incorporated Case 99-1463

In the

Supreme Court of the United States

Submitted March 3, 2000

October Term, 1999

In re LARRY RITCHIE JUNIOR, Sui Juris — Petitioner,

-vs-

STATE OF WEST VIRGINIA [Sued as a Person]
COUNTY OF WOOD [Sued as a Person]
CITY OF PARKERSBURG [Sued as a Person]
JOSEPH GOODWIN [Judge]
STEPTOE & JOHNSON [Sued as a Person]
W. RANDOLPH FIFE [Attorney]
PAUL A. BILLUPS [Attorney]
MUNDY & ADKINS [Sued as a Person]
BENJAMIN HUGHES [Attorney]
PULLIN, KNOPF, FOWLER & FLANAGAN [Sued as a Person]
CHARLES HADEN II [Judge]
JERRY HOGG [Magistrate]
SAMEUL KAY [Clerk] — Respondents,

Reply Brief

LARRY RITCHIE JUNIOR Sui Juris
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Marietta, Ohio 45750
Petitioner

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APPENDIX

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I. Abbreviations and Definitions

Fed.R.Civ.P.	=	Federal Rules of Civil Procedure
U.S.Const.Am.	=	United States Constitution Amendment
U.S.C. §	=	United States Code Section
Sup.Ct. Prac. R.	=	Supreme Court Practice Rule

II. Statement of Jurisdiction

1) Supreme Court of United States possesses Jurisdiction under Sup.Ct. Prac. R. 10 for Petition for Writ of Certiorari; Title 28 U.S.C. §1651 for Issuance of Writs enforcing Title 28 U.S.C § 1605 "Foreign Sovereign Immunity Act" and Title 28 U.S.C. § 1606 for Loss of Immunity of Officers of Court; States and Foreign States for exhaustion of all remedies for adjudication by Court of last resort.

2) Larry Ritchie Junior Petitioner's Response: Judgment by Default Fed.R.Civ.P. Rule 55 for Judgment by Default: Writ of Replevin Title 28 U.S.C. § 1651 is made timely and in Good Faith with no just cause for delay.

III. Response

3) Without Due Process of Law under 1789 U.S. Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] for neglecting statement(s) claiming relief under Fed.R.Civ.P. Rule 8(a) for Statement(s) claiming Relief by Fed.R.Civ.P. Rule 7(a) for Pleading; Fed.R.Civ.P. Rule 8(b) for Form(s) of Denial or Fed.R.Civ.P. Rule 8(c) for Affirmative Defense(s) against Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari by Sup.Ct.Prac.R.30 for Computation of Time under Sup.Ct.Prac.R.15(2) for waivering of

rights neglecting any contesting of fact(s) and usage of law presented within Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari by objection(s) within a brief in opposition by design.

4) Without Due Process of Law under 1789 U.S. Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] for neglecting joinder as a Party under Fed.R.Civ.P. Rule 12(b)(7) and Fed.R.Civ.P. Rule 19 for Joinder as a Party with Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari by Sup.Ct.Prac.R.30 for Computation of Time under Sup.Ct.Prac.R.15(2) for waivering of rights neglecting any contesting of fact(s) and usage of law presented within Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari by objection(s) within a brief in opposition by design.

5) Without Due Process of Law under 1789 U.S. Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] for surrendering Judgment by Default under Fed.R.Civ.P. Rule 55 for Judgment by Default by Fed.R.Civ.P. Rule 8(d) for Effect of Failing to deny by submitting an Answer; Pleading or defense timely against Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari by Sup.Ct.Prac.R.30 for Computation of Time under Sup.Ct.Prac.R.15(2)

for waivering of rights neglecting any contesting of fact(s) and usage of law presented within Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari by objection(s) within a brief in opposition by design.

IV. Demand For Relief

6) Larry Ritchie Junior Petitioner demands Supreme Court of United States "replevy" relief demanded within Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari upon affirmative defenses of Res Judicata; Laches by Waivering of Rights and Estoppel In Pais against Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] for neglecting an Answer; Pleading or Defense timely against Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari by Sup.Ct.Prac. Rule 30 for Computation of Time under Sup.Ct.Prac. Rule 15(2) for waivering of rights neglecting any contesting of fact(s) and usage of law presented within Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari by objection(s) within a brief in opposition by design.

7) Any further relief Supreme Court of United States deems necessary.

V. Conclusion

8) Without Due Process of Law under 1789 U.S. Const.Am. V and XIV; Larry Ritchie Junior Petitioner was injured for knowledge of Law under Title 42 U.S.C. § 1986 for neglecting prevention of further injury(s) or wrong(s) by Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] surrendered

Judgment by Default under Fed.R.Civ.P. Rule 8(d) for Effect of Failing an Answer; Pleading or Defense timely against responsive pleading timely by Sup.Ct.Prac. Rule 30 for Computation of Time under Sup.Ct.Prac. Rule 15(2) for waivering of rights contesting any/all presentment of fact(s) and allegation(s) by objection(s) within a brief in opposition by design.

A. Facts

9) Supreme Court of United States issued no Order(s) granting relief preventing Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] submit an Answer(s); Pleading(s) or Defense(s) against Larry Ritchie Junior Petitioner's Writ of Certiorari filed March 3, 2000.

10) Sup.Ct.Prac.R. 15(1) provides Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] **need not file/submit Answer(s); Pleading(s) or Defense(s) in opposition with questions for review**.

11) Sup.Ct.Prac.R. 15(2) provides for submission of a brief in opposition with any misstatement of fact or law presented within Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari filed March 3, 2000 and **warns/admonishes** Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] **of obligation** for

presenting any misstatement(s) of facts or law(s) within Larry Ritchie Junior Petitioner's Petition for Writ of Certiorari.

12) Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] did **knowingly; willfully and voluntarily** waived rights of Answering; Pleading or defending against Larry Ritchie Junior Petitioner's responsive pleading filed with Supreme Court of United States March 3, 2000 entitled Petition for Writ of Certiorari.

13) Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] are **ripe for Judgment by Default** under Fed.R.Civ.P. Rule 55 for Judgment by Default by Fed.R.Civ.P. Rule 8(d) for Effect of Failing to deny.

B. Caveat

14) Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] has **FIVE** regular business days for showing cause curing Judgment by Default under Fed.R.Civ.P. Rule 55 for Judgment by Default or Judgment by Default becomes **FINAL.**

Respectfully Submitted,

Larry Ritchie Junior Petitioner
c/o Route 2 Box 54;Marietta, Ohio 45750

APPENDIX

APPENDIX A— Affidavit in Support

Incorporated Case 99-1463

In the

Supreme Court of the United States

Submitted March 3, 2000

October Term, 1999

In re LARRY RITCHIE JUNIOR, Sui Juris

Petitioner,

-vs-

STATE OF WEST VIRGINIA [Sued as a Person] et al:

Respondents,

Affidavit in Support

I. Larry Ritchie Junior Petitioner deposes under pains and penalties and states following:

1) Larry Ritchie Junior Petitioner is Affiant within Affidavit in Support of Response: Judgment by Default under Fed.R.Civ.P. Rule 55: Writ of Replevin Title 28 U.S.C. § 1651.

2) Affiant's Affidavit in Support of Response: Judgment by Default under Fed.R.Civ.P. Rule 55: Writ of Replevin Title 28 U.S.C. § 1651 are made timely and in Good Faith with no just cause for delay.

3) Affiant is over age of twenty-one and competent for testifying.

4) March 3, 2000; Affiant filed Petition for Writ of Certiorari with Supreme Court of United States directed against Court of Appeals of United States Fourth Circuit and United States District Court, Southern District of West Virginia for certification of record for review.

5) Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a

Appendix A

Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] possessed thirty days for Answering; Pleading or Defending against Affiant's Petition for Writ of Certiorari filed March 13, 2000.

6) Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] did knowingly, willfully and voluntarily waivered right(s) of answering; pleading or defending against Affiant's Petition for Writ of Certiorari.

7) Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] are barred by laches from asserting Answer(s) Pleading(s) or Defense(s) against Affiant's Petition for Writ of Certiorari.

8) Supreme Court of United States issued no order granting Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] relief against asserting Answer(s); Pleading(s) or Defenses against Affiant's Petition for Writ of Certiorari.

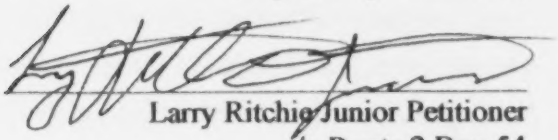
Appendix A

9) Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] are in Default and ripe for Judgment under Fed.R.Civ.P. Rule 55 for Judgment by Default by Fed.R.Civ.P. Rule 8(d) for Effect of Failing to deny and Sup.Ct.Prac.R. 15(2) for admonishing/warning Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] of obligation of presenting any misstatement of Fact(s) or Law(s) within a Brief of Opposition and no presentment of a Brief in Opposition deems Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] has waivered rights and admitted all statement of facts and of law presented within Affiant's Petition for Writ of Certiorari are true and correct.

10) All presentment of facts within Affiant's Response: Judgment by Default under Fed.R.Civ.P. Rule 55: Writ of Replevin Title 28 U.S.C. § 1651 and Affidavit in Support are very best Affiant's knowledge, So help me God.

Appendix A

Respectfully Submitted,



Larry Ritchie Junior Petitioner
c/o Route 2 Box 54
Marietta, Ohio 45750

Subscribed under Oath before me 6 day of April 2000 Anno Domini.

Amanda J. Phillips
Notary

My Commission Expires _____

AMANDA J. SHANKLAND
Notary Public
In and For The State of Ohio
My Commission Expires May 18, 200

Incorporated Case 99-1463

In the

Supreme Court of the United States

Submitted March 3, 2000

October Term, 1999

In re LARRY RITCHIE JUNIOR, Sui Juris

Petitioner,

-vs-

STATE OF WEST VIRGINIA [Sued as a Person] et al

Respondents,

Affidavit of Truth

I. Larry Ritchie Junior Petitioner deposes under pains and penalties and states following:

1) Larry Ritchie Junior Petitioner is Affiant within Affidavit in Support of Response: Judgment by Default: Writ of Replevin Title 28 United States Code Section 1651.

2) Affiant's Affidavit of Truth is made timely and in Good Faith with no just cause for delay.

3) Affiant is over age of twenty-one and competent for testifying.

4) March 3, 2000; Affiant filed Petition for Writ of Certiorari with Supreme Court of United States directed against Court of Appeals of United States Fourth Circuit and United States District Court, Southern District of West Virginia for certification of record for review.

5) March 3, 2000; Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] received service of Affiant's responsive pleading entitled "Petition for Writ of Certiorari" {See execution of return of service marked as "Petitioner's Exhibit A"}.

5) March 13, 2000; Steven McGovan counsel of record for Respondents State of West Virginia [Sued as a Person], Steptoe & Johnson [Sued as a Person] and W.

Randolph Fife [Attorney] knowingly, willfully and voluntarily surrendered Respondents State of West Virginia [Sued as a Person], Steptoe & Johnson [Sued as a Person] and W. Randolph Fife [Attorney] rights of Answering; Pleading or Defending against Affiant's responsive pleading entitled "Petition for Writ of Certiorari" filed March 3, 2000 with Supreme Court of United States by submission of a Waiver {See waiver submitted by Respondents marked as "Petitioner's Exhibit B"}.

6) March 20, 2000; William Mundy counsel of record for Respondents Mundy and Adkins [Sued as a Person]; City of Parkersburg [Sued as a Person] and Paul Billups [Attorney] knowingly, willfully and voluntarily surrendered Respondents Mundy and Adkins [Sued as a Person]; City of Parkersburg [Sued as a Person] and Paul Billups [Attorney] rights of Answering; Pleading or Defending against Affiant's responsive pleading entitled "Petition for Writ of Certiorari" filed March 3, 2000 with Supreme Court of United States by submission of a Waiver {See waiver submitted by Respondents marked as "Petitioner's Exhibit C"}.

7) March 27, 2000; Kenneth Knopf counsel of record for Respondents County of Wood [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person] and Benjamin Hughes [Attorney] knowingly, willfully and voluntarily surrendered Respondents County of Wood [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person] and Benjamin Hughes [Attorney] rights of Answering; Pleading or Defending against Affiant's responsive pleading entitled "Petition for Writ of Certiorari" filed March 3, 2000 with Supreme Court of United States by submission of a Waiver {See waiver submitted by Respondents marked as "Petitioner's Exhibit D"}.

8) Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] possessed thirty days for Answering; Pleading or Defending against Affiant's Petition for Writ of Certiorari filed March 3, 2000.

9) Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] did knowingly, willfully and voluntarily waivered right(s) of

answering; pleading or defending against Affiant's Petition for Writ of Certiorari for sustaining Judgment by Default under Fed.R.Civ.P. Rule 55 for Judgment by Default against a responsive Pleading by Fed.R.Civ.P. Rule 8(d) for Effect of Failing to deny.

10) Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] did knowingly and willfully neglect joinder as Parties under Fed.R.Civ.P. Rule 12(b)(7) and Fed.R.Civ.P. Rule 19 for Joinder as Parties with Affiant's responsive pleading entitled "Petition for Writ of Certiorari" filed March 3, 2000 by Sup.Ct.Prac.R. 30 for Computation of Time under Sup.Ct.Prac.R. 15(2) for waivering of rights contesting any/all presentment of fact(s) and allegation(s) by objection(s) within a brief in opposition by design.

11) Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] are in Default.

12) Supreme Court of United States does entertain Jurisdiction over Subject Matter and over all Parties by "Accord and Satisfaction" of Sup.Ct.Prac.R. 10 for Petitioning Supreme Court of United States for Writ of Certiorari and Fed.R.Civ.P. Rule 4 for Service of Process upon all Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] by prepaid postage United States Certified Mail.

13) Affiant believes State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] are not members of any Armed Forces of United States of America.

14) Affiant believes all Respondents State of West Virginia [Sued as a Person]; County of Wood [Sued as a Person]; City of Parkersburg [Sued as a Person]; Steptoe and Johnson [Sued as a Person]; Mundy and Adkins [Sued as a Person]; Pullin, Knopf, Fowler and Flanagan [Sued as a Person]; Benjamin Hughes [Attorney]; Paul Billups [Attorney] and W. Randolph Fife [Attorney] are competent.

15) All presentment of facts within Affiant's Affidavit of Truth are very best of Affiant's knowledge, So help me God.

Respectfully Submitted,

Larry Ritchie Junior Petitioner
c/o Route 2 Box 54
Marietta, Ohio 45750

Subscribed under Oath/Affirmation before me 6 day of April 2000.

Notary

My Commission Expires

AMANDA J. SHANKLAND
Notary Public
In and For The State of Ohio
My Commission Expires May 18, 2002

precedent to support its claim of prejudice due to this change in insurance status. The Supreme Court, however, has staked out a different definition of prejudice: "the death or absence of a material witness" or "any substantial diminution of a party's ability to properly present its case at trial." *Jacobs v. Halloran*, 1998 Pa. LEXIS 583, *14 (Apr. 2, 1998). *See also*, *Biondillo v. Dept. of Trans.*, 674 A.2d 1175, 1178 (Pa. Cmwlth. 1996) (prejudice for purposes of non pros is "any substantial diminution in a party's ability to properly present a case").

Upon analysis of these considerations, the precedent cited, and the record presented, the plaintiffs in the *Durante* and *Johnson* cases have presented sufficient evidence of attorney neglect to allow the opening of judgments in these cases.

4. *The Unique Case of Martino v. Panichelli*

In their Petition,[73] plaintiffs argue that the "proper cause" standard clearly applies to the case of *Martino v. Panichelli*

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73. Defendants Panichelli et al. responded to plaintiffs' Petition with both an Answer and a Motion to Dismiss. In their motion to dismiss, defendants argue (1) that the petition should be dismissed under Rule 1032(a) for failure to state a cause of action since Pa.R.C.P. 1007 provides only 2 ways to commence a cause of action (complaint or summons) and (2) that the petition is an impermissible attack on a final order since 42 Pa.C.S.A. §5505 limits reconsideration of a final order to 30 days. Various other defendants have raised the first procedural objection and, in the interest of judicial economy they are discussed together in section (C.2) *supra*. The second argument, raising the limits set forth in 42 Pa.C.S.A. §5505, has necessarily been addressed in the substantive analysis of this opinion, section (B.2) *infra*.

because it "was dismissed by order of discontinuance, based on Mr. Smith's failure to file a complaint."[74] Unfortunately, the procedural context of this case is more complicated than plaintiffs suggest.

Martino v. Panichelli is a legal malpractice action against Michael Panichelli and the law firm of Litvin, Blumberg, Matusow & Young on behalf of plaintiff John Martino whose malpractice action against several doctors was dismissed on summary judgment for failure to present an expert witness.[75] After Mr. Martino's medical malpractice action was dismissed, he initiated the action against Panichelli when his attorney, Thomas Smith, filed a Writ of Summons on September 12, 1996. Both parties concede that a Rule to File a Complaint within 20 days was filed *sua sponte* by court Order dated April 17, 1997. Counsel were further ordered to appear before the Day Forward team leader on May 19th. The Order then provided:

> If a complaint is filed within 20 days from the date of this Order said appearance is for the purpose of conducting a Case Management Conference, otherwise said appearance is for the entry of an appropriate Judicial order for failure to prosecute.[76]

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74. Plaintiffs' Petition, Memorandum at 11.

75. Answer of Defendant Panichelli re: *Martino*, Memorandum at 1-2.

76. Answer of Defendant Panichelli re: *Martino v. Panichelli*, Ex. "C." *See also* Ex. "E," Affidavit of Charles Young, Esquire, ¶ 12.

Defendants state that after this Order by Judge Sheppard was entered, they reached an oral agreement with Mr. Smith that he would provide defendants "with a copy of an expert's report by June 20, 1997 or the *above mentioned matter will be dismissed with prejudice.*" Defendants affix a copy of May 19, 1997 letter to Mr. Smith that sets forth this oral agreement. *See* Defendants' Answer, Ex. "D". The Rule Returnable date for the April 17th Order was rescheduled for June 23, 1997. At that point, both parties agree, the Order had not been complied with, and the Court ordered the action discontinued. Both parties also agree that Judge Sheppard, while discontinuing the case, did not do so with prejudice. Instead, he asked defense counsel to notify Mr. Smith that he had ten days in which to get the Order of dismissal withdrawn.[77]

On July 23, 1997 the Court issued the following order:

> And Now, this 23rd day of July, 1997, it is hereby ORDERED and DECREED that the case of *Martino v. Panichelli*, September Term 1996, No. 502 is hereby *dismissed with prejudice*. Defendants' Answer, Ex. "A" (emphasis added).

Despite the clear language of the July 23, 1997 Order *dismissing* the entire *Martino* case with prejudice, plaintiffs baldly assert:

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77. Plaintiffs' Reply, Memorandum at 2-3 (referencing docket entries). Defendants' Answer, Ex. "E," Affidavit of Charles Young, ¶¶ 16-17.

> In sum, there is no colorable question as to the nature of the judgment in *Martino*. The case was dismissed "for failure to prosecute. *Id.* [Defendants' Memorandum], Exhibit "C." It was a judgment of non pros.[78]

In making this assertion, plaintiffs' cite Defendants' Exhibit "C," the April 17th Order, stating that if counsel failed to file a complaint an "appropriate Judicial order for failure to prosecute would be ordered." In so doing, however, they fail to grapple with the very precise words of the July 23, 1997 Order, which provided that "the case of *Martino v. Panichelli et al.*, September Term 1996, No. 502 is hereby dismissed with prejudice."[79]

As an initial step, it is necessary for this Court to determine the legal implications of Judge Sheppard's July Order so that the appropriate standard of review can be applied. This is a delicate inquiry since, under the rule of coordinate jurisdiction, a judge may not overrule the same order of a coequal judge absent new facts or precedent. *Goldey v. Trustees of the Univ. of Pa.*, 544 Pa. 150, 675 A.2d 264, 267 (1996). Clearly, plaintiffs have presented new facts in their Omnibus Petition seeking to open this judgment on the basis of Mr. Smith's professional dereliction. It is permissible for this Court to consider these new facts as they relate to opening the relevant July 23 Order in this case. It would not be permissible, however, for this Court to subvert

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78. Plaintiffs' Reply re: *Martino*, Memorandum at 3.

79. Defendants' Answer re: *Martino*, Ex. "A".

the intent or legal import of that Order by mischaracterizing a final order of dismissal as a non pros, and thereby applying an incorrect standard of review.

It is, of course, quite common for courts to issue judgments of non pros for failure to file a complaint, but in those cases the relevant orders were cast in terms of non pros. *See, e.g. Broglie v. Union Township*, 319 Pa. Super. 141, 465 A.2d 1269 (1983) (court ordered judgment of non pros for failure to file amended complaint) . Non pros may also be obtained by filing a praecipe after the issuance of a Rule to File a Complaint but, once again, that order is cast in terms of non pros. *See, e.g., Esslinger v. Sun Refining and Marketing*, 379 Pa. 69, 549 A.2d 600, 602 (1988).

Non pros may be ordered not only for failure to file a complaint, but also for failure to comply with court orders compelling response to discovery requests. *See, e.g., Lawrence v. General Medicine Assoc.*, 412 Pa. Super. 163, 602 A.2d 1360, 1361 (1992) (court ordered judgment of non pros for failure to respond to discovery requests). Indeed, when confronted with these early pretrial issues, courts have the discretion to dismiss a case for failure to respond to discovery requests. *See, e.g., Luckenbaugh v. Shearer*, 362 Pa. Super. 9, 523 A.2d 399 (1987), *app. denied*, 518 Pa. 626, 541 A.2d 1138 (1988) (plaintiffs' case dismissed with prejudice for failure to answer interrogatories); *Simpson v. Allstate Ins.*, 350 Pa. Super. 239, 504 A.2d 335 (1986) (trial court ordered Prothonotary to enter judgment for failure to comply with discovery order). When cases are dismissed with prejudice in such an adversarial setting, there must be a showing of prejudice or extraordinary cause before they can

be opened. *See*, *Simpson*, *supra*, 504 A.2d at 337-38; *Luckenbaugh*, *supra*, 523 A.2d at 401.

Finally, Pa.R.C.P. 1037(c), dealing with Judgments by Default, suggests the discretion and options available to a judge in cases of "default" or non pros, since it provides not only for procedures involving the entry of a judgment of non pros by filing a praecipe with the prothonotary but also provides:

> In all cases, the court, on motion of a party may enter *an appropriate Judgment* against a party upon default or admission. Pa.R.C.P. 1037(c) (emphasis added).

What is significant about these cases and Rule 1037(c) is the degree of discretion provided to a court. It is thus imperative to consider carefully the precise wording of an order to determine its implications. In this regard, the July 23 Order is unmistakably clear: it dismissed the *Martino* case with prejudice. It thus cannot be opened merely for proper cause shown; rather, plaintiffs must establish the requisite fraud or "extraordinary cause."

There is, however, the same evidence of Mr. Smith's abandonment of the *Martino* case that plaintiffs have pointed to regarding other cases throughout their petition — in the defendants' own documents. Defendants cite, for instance, a May 19th letter from defense counsel Charles Young to Mr. Smith confirming an oral agreement that he would provide an expert report by June 20, 1997 or the *Martino* case would be subjected to the extreme sanction of dismissal

with prejudice. Defendants' Answer, Ex. "D." In his affidavit, Charles Young stated that he had informed Mr. Smith that Judge Sheppard had given him 10 days in which to seek withdrawal of the June 23 dismissal order in this case but:

> Mr. Smith never requested that the dismissal be withdrawn and on July 23, 1997, I wrote Judge Sheppard a letter [Exhibit "C"] requesting that the court sign an order of dismissal. Defendants' Answer, Ex. "E," Affidavit of Charles Young, ¶ 17.

This failure of Mr. Smith to respond to the Court's invitation to seek removal of the adverse judgment is certainly consistent with the pattern of professional dereliction that is the basis for opening the eight final, adversarial judgments previously discussed.

5. *Request for Extension of Discovery Deadlines in Folger v. Dugan and Harris v. Chestnut Hill Hospital*

In their Omnibus Petition, plaintiffs request new scheduling orders for discovery in three cases that have not been dismissed but in which, they allege, Mr. Smith failed to conduct necessary discovery: *Folger v. Dugan*, July Term, 1996, No. 1010; *Harris v. Chestnut Hill Hosp.*, October 1995, No. 3221 and *Joyner v. Patterson*, May 1994, No. 964. [The *Joyner* case has been withdrawn from the Petition by letter dated June 11, 1998.] Plaintiffs have detailed the reasons

why a new scheduling order in both *Folger* and *Harris* should issue, while various defendants have opposed any extension.

In *Folger*, a medical malpractice case brought on behalf of a brain damaged infant, plaintiffs seek a new scheduling order because, they assert, Mr. Smith did not depose any of the five defendant doctors. Moreover, he failed to obtain an expert report. *See* Plaintiffs' Petition, ¶ 8b. The various defendants who responded do not deny that Mr. Smith did not conduct the discovery that plaintiffs' claim is essential for presenting a viable claim. Instead they emphasize plaintiffs' procedural irregularities and the prematurity of this petition because all discovery did not have to be completed until February 2, 1998. Defendants do not point to any specific prejudice they would suffer if the deadlines were extended. Defendant Frankford Hospital, for instance, vaguely states that "Defendants will be prejudiced if this case is further delayed." Defendant Dr. Moughan maintains that "further delay caused by another extension of the Case Management deadlines in this case will prejudice respondent." Finally, defendants Dr. Erica Turner and St. Christopher's Hospital state that they "will be prejudiced by the grant of extraordinary relief" without specifying the nature of this prejudice other than the "passage of time."[80]

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80. *See* Answers of defendant Beth Moughan re: *Folger*, Memorandum at 2-3; Defendant Frankford Hospital, Memorandum at 4. Frankford Hospital admits that no discovery depositions were taken. *Id.* at 1. *See generally*, Answer of Defendant Dr. Theresa Dugan; Answer of Dr. Erica Turner and St. Christopher's Hospital, Memorandum at 12.

Appendix A

In the *Harris* case, a medical malpractice action involving an alleged delay in diagnosing cancer, plaintiffs assert that they require a new discovery schedule because Mr. Smith conducted no depositions in this case. Although he did obtain an expert report, he failed to provide the expert with evidence critical to a failure to diagnose case — pathology slides. Plaintiffs further claim that the most critical missing piece in their discovery — the pathology slides — could be completed almost immediately.[81] Defendants Chestnut Hill Hospital and Dr. Ru-Lin Ko Tung, M.D., et al. do not dispute plaintiffs' description of the state of discovery in this case but they point out that Mr. Smith served a request for admissions on Dr. Tung, Chestnut Hill Hospital and Chestnut Hill Pathology. Moreover, defendants claim that they will have difficulty defending this case because of the passage of time. Answer of Defendants Chestnut Hill Hosp., et al re: *Harris*, Memorandum at 2-3, 12.

The Pennsylvania Supreme Court in *Feingold v. SEPTA*, 512 Pa. 567, 517 A.2d 1270, 1272 (1986), cautioned that its "approach to the enforcement of procedural rules, whether local or state-wide, is dictated by the facts and circumstances of each individual case." In setting forth a four-part test for determining when testimony of an expert witness could be excluded, it called for the analysis of prejudice to the various parties, the ability to cure this prejudice, whether the progress of a trial would be disrupted, and the willfulness or bad faith of a party. *Id.*, 517 A.2d at 1273. Other courts, when

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81. Plaintiffs' Petition, ¶8(c); Plaintiffs' Reply to defendants Chestnut Hill Hospital and Ru-Lin Ko Tung, M.D. re: *Harris*, Memorandum at 6.

grappling with discovery issues, have applied the *Feingold* approach, focusing on the facts of each case and the potential prejudice to all parties. *See, e.g., Curran v. Stradley, Ronon, Stevens & Young*, 361 Pa. Super. 17, 521 A.2d 451 (1987).

Applying these principles, the serious prejudice that the plaintiffs in *Folger* and *Harris* will encounter because of their counsel's failure to conduct adequate discovery far outweighs the vague claims of prejudice by the defendants if the discovery deadlines are extended. *See, e.g., Curran, supra*, 521 A.2d at 458 (Trial court erred in precluding expert witness identified 9 days prior to trial because "[i]n balancing the *Feingold* factors as they relate to each party, we conclude that the prejudice to Stradley substantially outweighs the potential prejudice to Panaccion"). In their Petition and replies, the plaintiffs in *Folger* and *Harris* have pointed to specific discovery necessary to their case. They have offered a compelling explanation for why this discovery was not completed — Mr. Smith's pattern of progressive abandonment of his cases during a discrete period. They have posed their request long before any trial; indeed, plaintiffs indicate that the *Folger* case has yet to be listed for trial. They also specifically identify how an inability to conduct this discovery would have a devastating impact on their case. In contrast, defendants have alleged only vague claims of prejudice.

These facts contrast markedly to those of *Stewart v. Rossi*, 452 Pa. Super. 120, 681 A.2d 214 (1996), *app. denied*, 547 Pa. 731, 689 A.2d 235 (1997), which is cited by defendants Dr. Turner and St. Christopher's Hospital in the *Folger* case and defendants Chestnut Hill Hospital and Dr.

Ru-Lin Ko Tung in the *Harris* case. In *Stewart*, the Superior Court affirmed the trial court's grant of summary judgment based on plaintiffs' failure to conduct discovery. A subsidiary issue involved whether the trial court had properly denied plaintiffs' last minute petition for extraordinary relief. In concluding that it was proper to deny this petition, the *Stewart* Court noted that plaintiffs had waited until "just prior to trial" to file it after conducting no discovery. Moreover, the Court more generally emphasized that because of plaintiffs' bad faith (i.e., failure to answer interrogatories carefully or to identify witnesses), the defendant was prejudiced in his ability to prepare a defense.

In the instant Petition, in contrast, plaintiffs seek additional discovery well in advance of trial. Defendants ability to prepare a defense should not, therefore, be prejudiced. The prior scheduling orders for these cases are therefore vacated and a new case management conference shall be scheduled promptly.

C. *PROCEDURAL ISSUES RAISED IN DEFENDANTS' PRELIMINARY OBJECTIONS AND MOTION TO DISMISS*

Preliminary Considerations: Rule of Coordinate Jurisdiction

As a preliminary issue, the rule of coordinate jurisdiction should be addressed. It is well established that judges of coequal jurisdiction should not overrule each other on the same motion in the same case. *Klein v. Weisberg*, 694 A.2d 644, 646 1997 Pa. Super. LEXIS 993 (Pa. Super. 1997), *app.*

denied, 1998 Pa. LEXIS 1134 (Pa. June 1998). There are, however, exceptions to this rule where a judge is presented with new facts or new precedent "that clearly warrant a new look at the question." *Riccio v. American Rep. Ins. Co.*, 705 A.2d 422, 425 1997 Pa. LEXIS 2735 (Pa. 1997). In addition, a co-equal judge may also make a different ruling on motions that are procedurally distinct such as summary judgment motions and preliminary objections. *Domenick v. Mercy Hosp.*, 446 Pa. Super. 313, 673 A.2d 959, 961 (1996).

Plaintiffs' Petition to Open Judgments presents this Court with facts that were not presented to the judges who originally entered judgments in the cases set forth in the Petition. The full significance of plaintiffs' new facts, moreover, emerges only with the benefit of an global view of the cases presented in this Petition. It is the pattern presented in these cases that is most compelling. The interests of judicial economy — and justice — are thus best served by having a single judge rule on this Petition.

1. *Preliminary Objections filed by Defendants in the Cunningham Case*

Defendants in the *Cunningham* case, KRN Associates, Dr. Arnold Kessler, Dr. Binder, Dr. Rubin, Dr. Hooshang Nikoo and Dr. Stephen Kessler, filed Preliminary Objections to the Omnibus Petition to Open Judgment. The Rules for Civil Procedure, however, do not provide for the filing of preliminary objections to a petition. Pennsylvania Rules of Civil Procedure 206.1 through 206.7 relate specifically to petitions. Rule 206.1 thus outlines the criteria for a petition, while Rule 206.2 provide for an "Answer" in response to a

petition. In the interest of judicial economy, and since plaintiffs have responded to the preliminary objections, this Court will address the substance of the preliminary objections. *Moran v. Paine, Webber, Jackson & Curtis*, 422 Pa. 66, 220 A.2d 624, 627, n.2 (1966).

Defendants initially object to the use of a petition to open a judgment. While, at first, this objection seemed to address procedural incorrectness, in fact these defendants pose the same substantive argument relating to the restrictions set by 42 Pa. C.S.A. §§ 5505 as to this Court's lack of jurisdiction to open the final judgment in this case.[82] Since this issue already has been addressed in Section (B.2), it will not be revisited.

Defendants also raise a more procedural, technical argument that the Petition is improperly verified and should thus be stricken. For the following reasons, this request must be denied as too extreme.

The rules relating to petitions require that "a petition or an answer containing an allegation of fact which does not appear of record shall be verified." Pa.R.C.P. 206.3 The note to this rule references Pa.R.C.P. 76 for a definition of 'verification'. "Verified," according to Pa.R.C.P. 76, "when used in reference to a written statement of fact by the signer, means supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities." Pa.R.C.P. 76.

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82. Preliminary Objections of Defendants KRN Associates et al. re: *Cunningham*, Memorandum at II.A. (unnumbered memo).

Appendix A

The rules relating to verification of a petition or an answer to a petition were adopted in September, 1995, effective January 1, 1996. Defendants, however, cite a case decided in 1980, *Rupel v. Bluestein*, 280 Pa. Super. 65, 421 A.2d 406 (1980), in support of the argument that the Petition should be dismissed because the verification is improper. Plaintiffs also cite relatively old cases. It is therefore necessary to turn to this precedent.

Although a petition is not a pleading, the Superior Court has focused on Pa.R.C.P. 1024, which relates to verification of complaints, for guidance on the proper verification for a petition. *Monroe Contract Corp. v. Harrison Square, Inc.*, 266 Pa. Super. 549, 405 A.2d 954, 957 (1979). Rule 1024 provides, in relevant part, that:

> The verification shall be made by one or more of the parties filing the pleading unless all the parties (1) lack sufficient knowledge or information, or (2) are outside the jurisdiction of the court and the verification of none of them can be obtained within the time allowed for filing the pleading. In such cases, the verification may be made by any person having sufficient knowledge or information and belief and shall set forth the source of his information as to matters not stated upon his own knowledge and the reason why the verification was not made by a party. Pa.R.C.P. 1024(c).

Defendants argue that the verification is improper because "the Cunninghams have failed to submit any